Registry of the Competition Tribunal

2011–12

Departmental Performance Report

Christian Paradis
Minister of Industry and Minister of State (Agriculture)

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Minister's Message

The Department of Industry and the other members of the Portfolio have made significant progress on a number of priorities in 2011-12.

This past year, the Industry Portfolio has worked to strengthen Canada's business environment, support scientific research and development, encourage business-driven innovation, and modernize our laws for the digital economy. The Government of Canada has made science, technology and innovation a priority since 2006, and, as this report shows, we are continuing to fulfil our commitment.

In 2011-12, the Competition Tribunal continued its judicial role and dealt mainly with matters related to mergers and restrictive trade practices. A few large complex cases have been filed with the Tribunal during the year. The outcome of these cases could have an impact on some economic sectors of the economy such as the air travel industry and the real estate market.

Our government understands that innovation is one of the most important contributors to future economic growth. By creating new products and services, opening new markets and rethinking today's technologies, Canadian researchers, entrepreneurs and businesses across the country will help create new jobs, spur economic growth and ensure Canada's long-term prosperity.

As we move forward, the Industry Portfolio will continue to support government priorities while taking important steps to restore fiscal balance in the medium term. Through the right mix of strategic investment, marketplace frameworks and modern programs and services, we will continue to set the conditions for companies to succeed at home and abroad.

It is my pleasure to present the 2011-12 Departmental Performance Report for the Registry of the Competition Tribunal.

Christian Paradis
Minister of Industry and Minister of State (Agriculture)

Section I: Organizational Overview

Raison d'être

The Competition Tribunal, established in 1986, is an independent, quasi-judicial tribunal established under the *Competition Tribunal Act* to hear applications brought by the Commissioner of Competition or a private party, depending on the circumstances, under various parts of the *Competition Act*. The purpose of the *Competition Act* is to maintain and encourage competition in Canada. The Tribunal hears applications related to deceptive marketing practices, such as misleading advertising, under Part VII.1 of the *Competition Act*. The Tribunal also has jurisdiction to hear references as well as applications brought pursuant to Part VIII, which sets out restrictive trade practices such as exclusive dealings.

Responsibilities

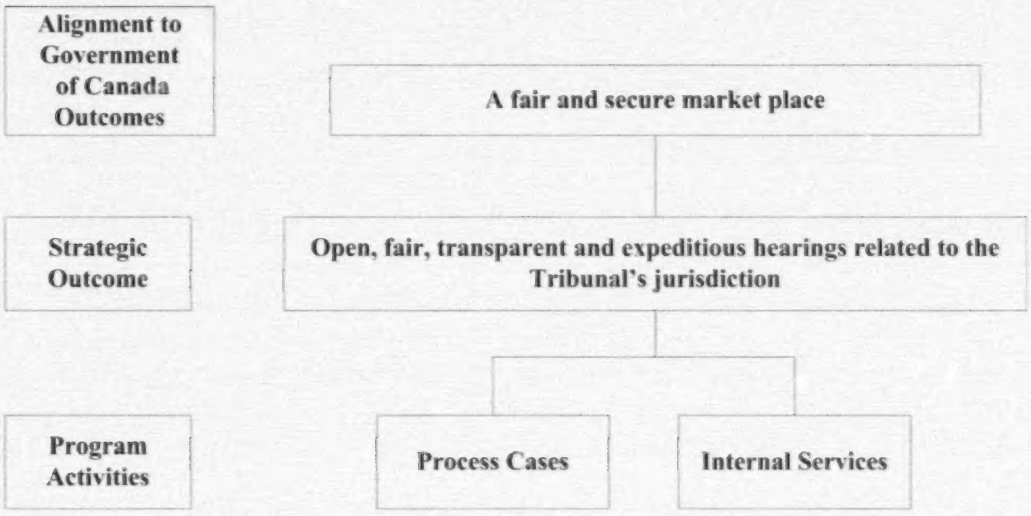
Since its creation in 1986, the Tribunal has heard cases relating to mergers, abuse of dominance, deceptive marketing and various trade practices that have involved key players in several industries. Cases have involved a number of business areas, including furniture stores, importers of cast iron pipes, airline computer reservation systems, community newspapers, aspartame, waste disposal, car parts, weight-loss products, fuel-saving devices, fireplace maintenance products, banking services, poultry supply, and career management services.

The *Competition Tribunal Act* provides for an administrative infrastructure in support of the workings of the Competition Tribunal, through the Registry of the Competition Tribunal. The Registry of the Competition Tribunal is designated a department under Schedule I.1 of the *Financial Administration Act* and therefore must adhere to federal public administration policies including the preparation of this Departmental Performance Report. This Report pertains to the activities of the Registry in support of the Tribunal and its deliberations, and not to Tribunal cases themselves.

The Registry of the Competition Tribunal supports all aspects of the Tribunal's work and ensures that the Tribunal can hold hearings across Canada, as required. The Registry is also the repository for filing applications, consent agreements, and documents, as well as issuing documents and orders for all cases brought before the Tribunal. The office of the Registry of the Competition Tribunal is located in the National Capital Region.

Strategic Outcome and Program Activity Architecture

The chart below illustrates the Registry of the Competition Tribunal's framework for how its program activities contribute towards its strategic outcome.


Alignment to Government of Canada Outcomes
A fair and secure market place
Strategic Outcome
Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction
Program Activities
Process Cases
Internal Services

Organizational Priorities

Summary of Progress Against Priorities

Priority	Type[1]	Strategic Outcome
Develop new tools and services offered by the Registry and implement a communication strategy to inform the public of those tools and services	New	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
• The Registry deployed its enhanced e-filing service in May 2011. An information bulletin was sent to the users informing them of the enhancement to the system. Detailed information was provided on the website to assist users in registering for the services. One-on-one support was provided to users who needed additional information or assistance to use the Registry's system. • An implementation plan and internal procedures to make the Tribunal's decisions accessible in the new		

1. Type is defined as follows: previously committed to—committed to in the first or second fiscal year prior to the subject year of the report; ongoing—committed to at least three fiscal years prior to the subject year of the report; and new—newly committed to in the reporting year of the Report on Plans and Priorities or the Departmental Performance Report.

international format were developed and current decisions are now available to visually impaired individuals.

Priority	Type	Strategic Outcome
Provide Continuous Learning Opportunities to Tribunal Members	Ongoing	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
• The Annual Members Meeting included presentations on the merger guidelines in Canada and the US as well as an in-depth discussion, facilitated by expert economists, on a case study involving mergers and acquisitions. The case study gave an opportunity to Members to discuss and apply some of the economic theoretical and empirical measurement methods as well as key concepts and factors used in merger analysis.		

Priority	Type	Strategic Outcome
Develop partnerships with other organizations to provide learning opportunities to employees	Ongoing	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
• During the year the services of four employees were shared between different organizations. This initiative provided additional opportunities to employees and increased the pool of resources available to handle fluctuations in the workload. • Tribunal cases are specialized therefore increased exposure to other organizations better prepares staff to assist Tribunal members and parties in the processing of cases.		

Risk Analysis

The Registry of the Competition Tribunal has a major planning challenge in that the Tribunal can only react to external demands. Its sole function is hearing references and applications and issuing orders. The number of applications brought before the Tribunal depends on the enforcement policy adopted by the Commissioner of Competition and the number of applications filed by individuals or companies under the private access provisions of the Act.

The demand for services from the Registry has increased due to the expansion in the Tribunal's jurisdiction which included the introduction of a new civil provision to deal with agreements between competitors. Training members on this expanded jurisdiction was key in ensuring their readiness to hearing those types of cases.

The number of active cases is not necessarily large but the complexity and size of those cases are significant. One of those large cases was heard in Vancouver in November 2011 and the other three are expected to be dealt with in 2012-13 and 2013-14. The new civil provision regarding

agreements between competitors which broadened the jurisdiction of the Tribunal has started to impact the workload of the Tribunal.

Registry staff turnover has been minimal during this fiscal year. The Registry continued to work on developing partnerships with other small organizations to share some employees. A partnership that had been established with the Registry of the Public Servants Disclosure Protection Tribunal was extended and additional agreements were developed with the Registry of the Specific Claims Tribunal and the Courts Administration Service. These agreements maximized the use of resources and provided developmental opportunities to staff in an effort to retain them in key positions.

Summary of Performance

2011–12 Financial Resources ($ thousands)

Planned Spending	Total Authorities*	Actual Spending*
2,329	2,517	1,589
* Excludes amount deemed appropriated to Shared Services Canada, if applicable.		

2011–12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
14	8	6

The variance between the planned versus utilized financial and human resources was created by the lower than expected number of cases filed at the Tribunal. The Registry can only react to the number of applications brought before the Tribunal by the Competition Bureau or by individuals and companies under the private access provisions of the Act. A few large cases were filed in 2010-11. One of those was heard in 2011-12 and the others are scheduled to be heard in 2012-13 and 2013-14. This results in a deferral of expenses and not necessarily a savings because significant expenses will be incurred when these larger cases are going to be heard by the Tribunal.

Summary of Performance Tables

Progress Toward Strategic Outcome

Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.		
Performance Indicators	**Targets**	**2011–12 Performance**
Client level of satisfaction regarding quality of service	80% or more clients are satisfied with service received from the Registry	Our measure of client satisfaction is usually based on feedback obtained from parties to cases heard by the Tribunal. With the very positive feedback received from parties further to a large hearing in Vancouver, we reached an 80% level of satisfaction. Also no negative feedback was received through the website.
Tribunal members' level of satisfaction regarding quality of service	80% or more of Tribunal members are satisfied with service received from the Registry	The Tribunal members' level of satisfaction reached 90% in 2011-12. Their feedback was obtained on the quality of services provided by the Registry throughout a hearing life cycle and on the organization of the members' continuous learning program.

Performance Summary, Excluding Internal Services

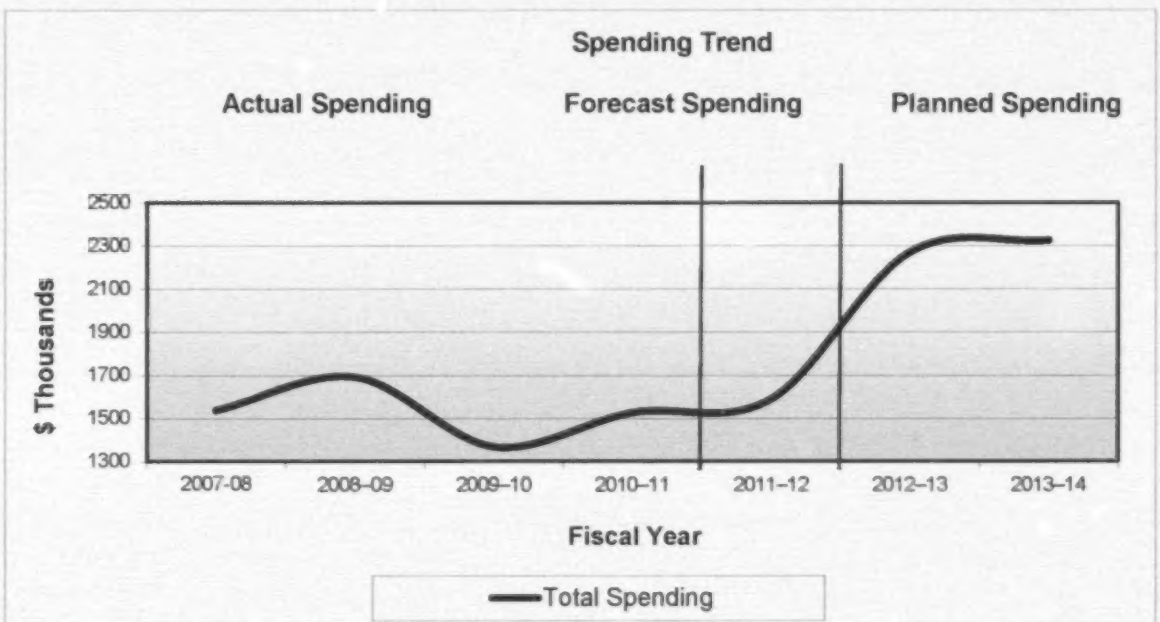
Program Activity	2010–11 Actual Spending	2011–12 ($ thousands)				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities*	Actual Spending*	
Process Cases	874	1,747	1,747	1,888	1,020	This program activity links to the Economic Affairs sector of activity of the Government of Canada, particularly the outcome area of a fair and secure marketplace.
Total	874	1,747	1,747	1,888	1,020	
* Excludes amount deemed appropriated to Shared Services Canada, if applicable.						

Performance Summary for Internal Services

Program Activity	2010–11 Actual Spending	2011–12 ($ thousands)			
		Main Estimates	Planned Spending	Total Authorities*	Actual Spending*
Internal Services	631	582	582	629	569
* Excludes amount deemed appropriated to Shared Services Canada, if applicable.					

Expenditure Profile

The low volume of cases and the sharing of resources between organizations have generated some savings for the Registry. This positive variance is likely temporary as the Registry does not have control over the number of cases filed. Also, the number of active cases is not necessarily large but the complexity and size for those cases are significant. Those cases will be heard in 2012-13 and 2013-14, therefore this will result in a deferral of expenses and not necessarily a savings because significant expenses will be incurred when these larger cases are going to be heard.



Estimates by Vote

For information on the Registry of the Competition Tribunal's Votes and/or statutory expenditures, please see the Public Accounts of Canada 2012 (Volume II). An electronic version of the Public Accounts 2012 is available on the Public Works and Government Services Canada's website[i].

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Program Activity 1: Process Cases

Program Activity Description

The Registry of the Competition Tribunal provides all administrative support required for the proper conduct of the Competition Tribunal's business and for the Tribunal to hold hearings anywhere in Canada.

2011–12 Financial Resources ($ thousands)

Planned Spending	Total Authorities*	Actual Spending*
1,747	1,888	1,020
* Excludes amount deemed appropriated to Shared Services Canada, if applicable.		

2011–12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
10	6	4

The variance between the planned versus utilized financial and human resources was created by the lower than expected number of cases filed at the Tribunal. The Registry can only react to the number of applications brought before the Tribunal by the Competition Bureau or by individuals and companies under the private access provisions of the Act.

Program Activity Performance Summary

Expected Results	Performance Indicators	Targets	Actual Results
Timely registry services that provide the public efficient access to case records and decisions.	Percentage of non-confidential case documents and decisions posted on website within 48 hours of filing.	90%	All documents (100%) were posted within 24 hours of receipt of a confirmation that the documents did not contain confidential information.

Documents that are processed according to timeframes established in the Rules of Procedure".	Documents processed within established timeframes.	100%	All documents (100%) were processed within the established timeframes.
Efficient access to electronic processing of applications.	Percentage of documents filed using the electronic filing system.	50%	The Registry met its 50% target due mainly to the notice issued to the legal profession, by the Chairperson, advising them that effective January 2012, all hearings must proceed electronically. A steady increase in the utilization of our e-filing system compared to regular email was subsequently noticed.

Performance Summary and Analysis of Program Activity

The Registry of the Competition Tribunal does not have control over the number of proceedings filed. It can only react to the number of applications filed by the parties. There was only a slight decrease in the number of filings in 2011-12 compared with 2010-11. This is mainly due to the lower number of consent agreements filed at the Tribunal. The significant increase in the number of decisions rendered is due to the large number of interim decisions rendered in the four large cases to be heard by the Tribunal. Five proceedings were ongoing at the end of this fiscal year; some of those are scheduled to be heard in 2012-13, others in the early part of 2013-14.

Number of Proceedings

	2011-12	2010-11
Number of proceedings filed	**7**	10
Number of proceedings completed	**4**	8
Number of proceedings filed from previous years and still ongoing	**5**	3
Number of decisions rendered	**35**	14

Lessons Learned

We developed an enhanced e-filing system to operate very much like an email system. The parties have very little information to enter and the new technology is compatible with all recent operating systems. Parties sending documents by regular email were contacted and explained the benefits of using the secured e-filing system. One-on-one assistance was provided to parties requiring assistance to register on the e-filing system. This initiative increased our number of e-filers and maximized our investment in technology. This direct approach with the parties will also be used more regularly now that we have moved to electronic hearings and parties might require assistance initially when submitting documents. The new system also provides the functionality to Registry staff to send documents to the parties through the government of Canada secure channel. This provides a more efficient way to serve documents on the parties and will motivate them to use the Registry's e-filing system versus their email system.

Program Activity 2: Internal Services

Program Activity Description

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: Management and Oversight Services; Communications Services; Legal Services; Human Resources Management; Financial Management Services; Information Management Services; Information Technology Services; Real Property Services; Material Services; Acquisition Services; and Travel and Other Administrative Services. Internal Services included only those activities and resources that apply across an organization and not to those provided specifically to a program.

2011–12 Financial Resources ($ thousands)

Planned Spending	Total Authorities*	Actual Spending*
582	629	569
* Excludes amount deemed appropriated to Shared Services Canada, if applicable.		

2011–12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
4	3	1

Program Activity Performance Summary

Expected Results	Performance Indicators	Targets	Actual Results
High-quality internal services to the Registry function to ensure the infrastructure is in place to assist the Tribunal in meeting its mandate.	Continuous review of internal policies.	25 % per year	An inventory of financial and human resources policies and procedures was developed and priorities established for their review. 20% of internal policies were reviewed. The focus during the year was on planning for the implementation of the Policy on Internal Controls.
	Public Service Commission and Receiver General's rating of financial and human resources management.	80 %	Reports to Central Agencies were submitted on time, were complete and accurate. The Receiver General gave a rating of 80% to the Registry in its assessment of the accuracy and timelines of the reports submitted to them. The assessment of the staffing accountabilities of the Registry was also very good and no improvements were identified by the Public Service Commission.

Performance Summary and Analysis of Program Activity

Employee turnover was fairly low for a second year in a row. This provided better continuity of operations and enabled the organization to look at its internal controls in view of the new Policy on Internal Controls. Early in the fiscal year the Registry took the opportunity to enhance the functionalities of its electronic filing system with a view to making the system more user friendly while meeting the requirements of Treasury Board's directive on the Management of Information Technology Systems.

Lessons Learned

Making technology available and reliable does not mean all users are going to embrace it. Further training of users continues to be required to integrate the benefits of technology in the day to day provision of services to Tribunal members and parties.

The sharing of resources between organizations provides developmental opportunities and increased possibilities of advancement to the staff. Some employees fully support this initiative and have used these developmental opportunities to further their careers. The possibilities of these assignments will continue to be assessed on a case-by-case basis and in taking into consideration the increased number of hearing days forecasted for 2012-13.

Section III: Supplementary Information

Financial Highlights

Condensed Statement of Financial Position (Unaudited)
As at March 31, 2012
($ thousands)

	Change $	2011–12	2010–11
Total net liabilities	(69)	230	299
Total net financial assets	(19)	77	96
Departmental net debt	(49)	153	202
Total non-financial assets	(58)	177	235
Departmental net financial position	(9)	24	33

Condensed Statement of Operations and Departmental Net Financial Position (Unaudited)
For the Year Ended March 31, 2012
($ thousands)

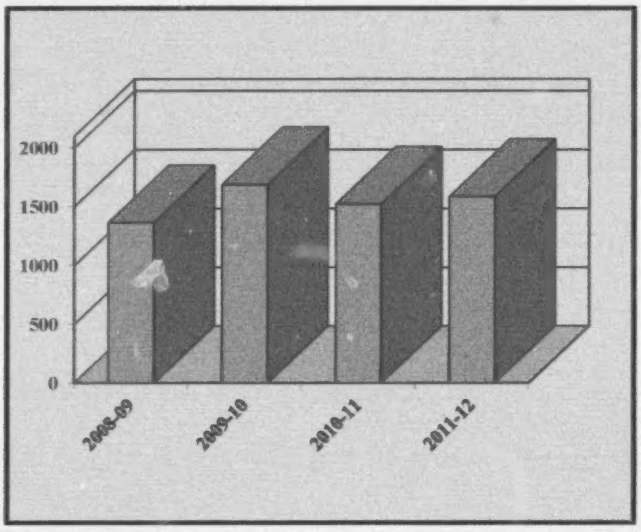
	Change %	2011–12	2010–11
Total expenses	6.3%	2,270	2,135
Total revenues	(100%)	0	77
Net cost of operations before government funding and transfers	10.3%	2,270	2,058
Departmental net financial position	(37.5%)	24	33

Total expenses are marginally higher than last year but they are in line with the level of complexity of the proceedings processed this year compared with last year.

Financial Highlights—Charts and Graphs

Actual Spending

($ thousands)



Over the last four years, actual expenses have been maintained within our spending authority. The lower volume of cases can explain part of the variance. The sharing of resources between organizations has also generated some savings for the Registry. This positive variance is likely temporary as the Registry does not have control over the number of cases filed and the additional jurisdiction given to the Tribunal has started to generate more cases.

Financial Statements

The Registry of the Competition Tribunal financial statements can be found on the Tribunal's website[iii].

Section IV: Other Items of Interest

Organizational Contact Information

Registry of the Competition Tribunal

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Website: www.ct-tc.gc.ca

Endnotes

[i] **Public Accounts of Canada 2011**, http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html
[ii] **Rules of Procedures of the Competition Tribunal**, http://www.ct-tc.gc.ca/Procedures/RulesProcedure-eng.asp
[iii] **Financial Statements of the Competition Tribunal**, http://www.ct-tc.gc.ca/ResourcesRessources/AFS-EFA/AFS-EFA-eng.asp